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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,006	03/06/2001	James C. Rush	STE01 P-1086	5256

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EXAMINER

HORTON, YVONNE MICHELE

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 07/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/800,006	Applicant(s) RUSH ET AL.	
	Examiner Yvonne M. Horton	Art Unit 3635	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 May 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 30-34, 76, 78, 79, 82-87, 89, 94 and 100-145 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 30-34, 79, 82-87, 89 and 94 is/are allowed.
- 6) ☒ Claim(s) 76, 78, 100-108, 116-120, 123-131, 134-137 and 140-143 is/are rejected.
- 7) ☒ Claim(s) 110-115, 121, 122, 132, 133, 138, 139, 144 and 145 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Status of the Claims

In response to the applicant's amendments received 05/05/06, claims 1-29, 35-75,77,80,81,88,90-93 and 95-99 have been cancelled and an examination of pending claims 30-34,76,78,79,82-87,89,94 and 100-145 follows.

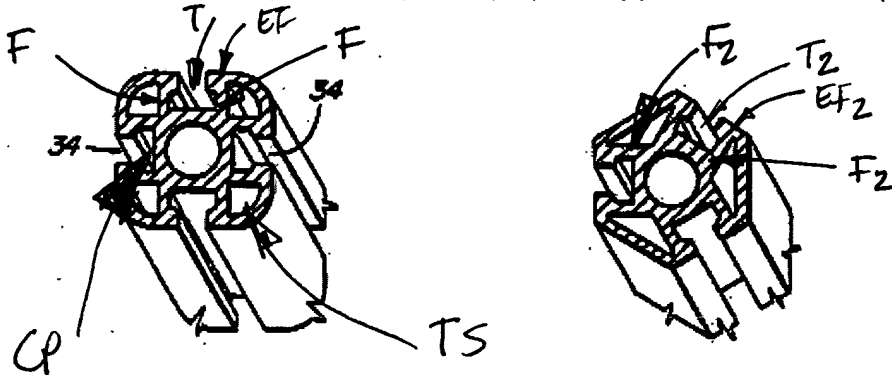
Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 76,78,100-108,116-120,134-136 and 137 stand rejected under 35 U.S.C. 102(b) as being anticipated by US Patent #5,277,512 to DWILLIES. In reference to claims 76,100, DWILLIES discloses the use of a post and beam furniture system for partitioning open including a plurality of overhead beams (10), each having opposite ends; a plurality of vertical posts (12), each having a lower portion thereof adapted to be abuttingly supported in a freestanding fashion on a floor surface of the open office space in a laterally spaced apart relationship, and an upper portion thereof operably connected with the opposite ends of said overhead beams (10) to support said beams (10) at a predetermined elevation above average user height; at least one of said posts having an X-shaped plan (see figure 14E) configuration defining four mutually perpendicular, outwardly extending flanges (F), each of which has an end face (EF) with a single T-shaped vertical slot (T) extending centrally there along; at least one of said posts (12) having a Y-shaped plan configuration (see figure 14D) defining three regularly spaced apart, outwardly extending flanges (F2), each of which has an end

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face (EF2) with a single T-shaped vertical slot (T2) extending centrally there along (Column 8, lines 57-65); and a plurality of beam-to-post connectors (14,50) attached to the opposite ends of said beams, and detachably retained in said slot (T,T2) of aligned pairs of said flanges (F,F2) on said posts (12) to support said beams (10) on said posts



(12) at said predetermined elevation. DWILLIES further includes at least one partition accessory (91) having a mount (92) that is detachably retained in the slots (T,T2).

Regarding claims 78 and 135, as seen in figures 13 and 14A-E, the beams (10) includes opposite end faces (EF,EF2) having the T-slots (T,T2); wherein, each of the slots (T,T2) are generally similar in shape and size to receive the accessory (91) therein. In further reference to claims 100 and 134, the vertical posts (12) of DWILLIES has a "cruciform" shape having a central portion (CP) with four of the flanges (F); wherein, the end face (EF) of the flange (F) is flat and mates flush with the end face of the beam (10), see figure 1; and the beam-to-post connector (14,50) includes a first portion (56) and a second portion (52). Regarding claims 101,134 and 135, the partition accessory (91) that is "configured" to equip the system for users is capable of being detachably retained at a variety of orientations along the length of the post. In reference to claim 102, the beam (10) has a longitudinal slot (22) similar to the slots

(T,T2) formed in the flanges (F) of the posts (12). In reference to claims 103,104,116,117,136 and 137, the different variations of beams (10), as detailed by DWILLIES, allows for slots (22) to have a first slot (40) and a second slot (38) extending centrally along an uppermost or a lowermost portion of the beam (10), column 8, line 57-column 9, line 2, such that the first portion (56) of the beam-to-post connectors (14,50) reside in the second slot (38). In reference to claims 105,106,107 and 118, the embodiment of beams (10), as detailed in figures (14d and e) each; respectively, has either three or four slots (22) of a "T-shaped" configuration that is shaped to receive the "T-shaped" connectors (14,50). Regarding claims 108,109,119 and 120, the central portion (CP) in figure (14e) is square and the flanges (F) protrude from the central portion (CP) in a manner to define generally triangular shapes (TS), see above.

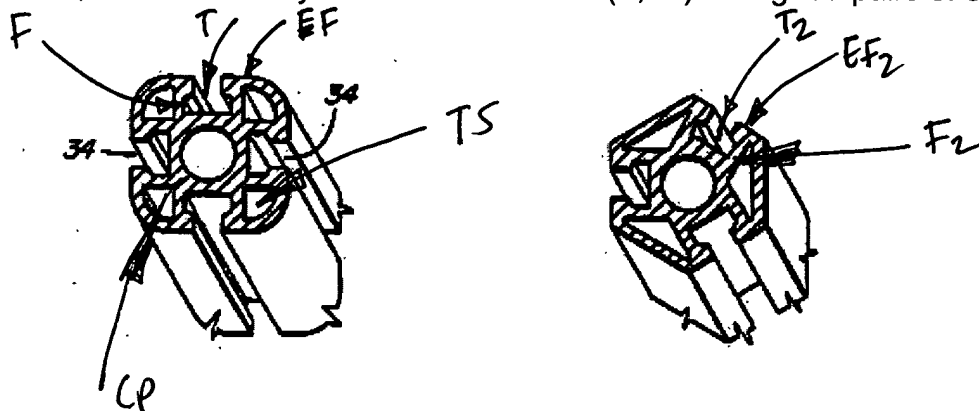
Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 123-131,140-143 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent #5,277,512 to DWILLIES. Regarding claims 123 and 140, DWILLIES discloses the use of a post and beam furniture system for partitioning open including a plurality of overhead beams (10), each having opposite ends; a plurality of vertical posts (12), each having a lower portion thereof adapted to be abuttingly supported in a freestanding fashion on a floor surface of the open office space in a laterally spaced apart relationship, and an upper portion thereof operably connected with the opposite ends of said overhead beams (10) to support said beams (10) at a

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predetermined elevation above average user height; at least one of said posts having an X-shaped plan (see figure 14E) configuration defining four mutually perpendicular, outwardly extending flanges (F), each of which has an end face (EF) with a single T-shaped vertical slot (T) extending centrally there along; at least one of said posts (12) having a Y-shaped plan configuration (see figure 14D) defining three regularly spaced apart, outwardly extending flanges (F₂), each of which has an end face (EF₂) with a single T-shaped vertical slot (T₂) extending centrally there along (Column 8, lines 57-65); and a plurality of beam-to-post connectors (14,50) attached to the opposite ends of said beams, and detachably retained in said slot (T,T₂) of aligned pairs of said flanges



(F,F₂) on said posts (12) to support said beams (10) on said posts (12) at said predetermined elevation. DWILLIES discloses the basic claimed system except for explicitly detailing that the flanges of his beams/posts extend at 120 degrees. Hence, considering the wide variety of beam/post members, DWILLIES details angles of 90,135 and 180 degrees, he does not specifically detail 120 degrees. It would have been obvious to one having ordinary skill in the art at the time the invention was made to select the angle of degree that the flange extends from the central member, as an obvious matter of design choice. Regarding claims 124,125 and 141, DWILLIES

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further includes at least one partition accessory (91) having a mount (92) that is detachably retained in the slots (T,T2); wherein the partition accessory (91) that is "configured" to equip the system for users is capable of being detachably retained at a variety of orientations along the length of the post. In reference to claims 126-127,142 and 143, the different variations of beams (10), as detailed by DWILLIES, allows for slots (22) to have a first slot (40) and a second slot (38) extending centrally along an uppermost or a lowermost portion of the beam (10), column 8, line 57-column 9, line 2, such that the first portion (56) of the beam-to-post connectors (14,50) reside in the second slot (38). In reference to claims 128-130, the embodiment of beams (10), as detailed in figures (14d and e) each; respectively, has either three or four slots (22) of a "T-shaped" configuration that is shaped to receive the "T-shaped" connectors (14,50). Regarding claim 131, the central portion (CP) in figure (14e) is square and the flanges (F) protrude from the central portion (CP) in a manner to define generally triangular shapes (TS), see above.

Allowable Subject Matter

Claims 30-34,79,82-87,89,94 remain as being allowed.

Claims 110-115,121,122,132,133,138,139,144 and 145 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

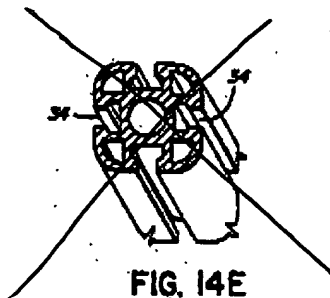
Response to Arguments

Applicant's arguments filed 05/05/06 have been fully considered but they are not persuasive.

In response to applicant's argument that the system of DWILLIES is not intended for partitioning open office space, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Regarding the applicant's argument that DWILLIES does not disclose the use of "overhead beams" as expressly set forth in the claims, the claims merely call for an overhead beam that is "operably" connected to an upper portion of a vertical post. Clearly, the overhead beams (10) of DWILLIES are connected to an upper portion of the vertical post (12), as seen in figure 1.

In reference to the applicant's argument that DWILLIES does not detail the use of a post having an "X" or "Y" shaped configuration, and that the shapes of the posts of DWILLIES are square and triangular; as shown below, the posts (12) of DWILLIES,



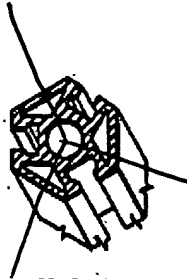


FIG. 14D

although not explicitly disclosed, are clearly “configured” as having “X” and “Y” shapes. No where does the DWILLIES patent refer to his post shapes as being “square” or “triangular”.

Regarding the applicant’s argument that DWILLIES does not disclose the use of a partition accessory “configured” to equip the system for users, DWILLIES surely details the use of a partition accessory (91) having a mount (98) “configured” for use with a shelf, column 7, lines 10-26. Mount (92) is designed for insertion into and removal out of element (84) and peg (98) receives a shelf (not shown); thereby, allowing the system to be “user” friendly.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yvonne M. Horton whose telephone number is (571) 272-6845. The examiner can normally be reached on 6:30 am - 3:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner’s supervisor, Carl D. Friedman can be reached on (571) 272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



YMH

07/21/06